



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/173058

PRELIMINARY RECITALS

Pursuant to a petition filed March 25, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on April 21, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly applied an auxiliary FS payment of the Petitioner's to a recoupment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On September 30, 2013, the agency established a FS overissuance claim against the Petitioner in the amount of \$874.

3. On February 25, 2016, the Petitioner completed a FS renewal. She reported monthly Social Security income of \$820 and monthly rent expense of \$600. She also reported paying an electric utility expense. The agency determined that an auxiliary of \$111 should be paid to the Petitioner for March, 2016.
4. On February 26, 2016, the agency issued a Notice of Decision to the Petitioner informing her that her FS benefits would increase from \$73 to \$175 effective March 1, 2016. It further informed the Petitioner that her benefit amount would be reduced by \$19/month due to a recoupment.
5. On March 8, 2016, the Petitioner came to the agency to inquire about the FS auxiliary because she had not yet received it. Petitioner was advised at that time that the auxiliary was being held due to agency policy to apply an auxiliary to the FS recoupment.
6. On March 29, 2016, the agency applied the auxiliary of \$111 to the Petitioner's previous FS overissuance. A total of \$497 has been recouped from the Petitioner's FS allotments since the establishment of the overissuance claim, including the \$111 auxiliary.
7. On March 30, 2016, the agency issued a notice of Supplemental Aid to Families and/or FoodShare to the Petitioner informing her that she received an auxiliary of \$111 for March, 2016 and that the auxiliary was applied to reduce her previous FS overissuance.
8. On March 25, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The Wisconsin FS Handbook instructs agency workers to offset an entire auxiliary against an overpayment claim if the claim is more than the auxiliary. FS Handbook, § 7.3.1.4. The only time that an auxiliary is not used to offset an outstanding overpayment claim is if the auxiliary is related to an initial allotment. *Id.*

In this case, the overpayment claim had a balance of \$488 prior to the application of the auxiliary. The amount of the claim was more than the auxiliary so the agency was required, by policy, to apply the entire auxiliary to the claim.

The agency worker and DHA are bound by the FS regulations and policies. The Petitioner requests equitable relief from the policy that neither the worker nor DHA is authorized to allow. Therefore, I must conclude that the agency properly applied the entire auxiliary of \$111 to the Petitioner's outstanding overpayment claim, per the FS policies.

CONCLUSIONS OF LAW

The agency properly applied the auxiliary of \$111 to the Petitioner's outstanding overpayment claim.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN

INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 19th day of May, 2016

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 19, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability